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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Dagy Group Incorporated, et al.,

10 Petitioners,

11 v.

12 Darewin Chip Incorporated, et al.,

13 Respondents.
14

No. MC-19-00003-PHX-GMS

ORDER

15 Pending before the Court is Respondents' Motion for Reconsideration (Doc. 19).
16 In that Motion, Respondents established the fact, decided by Chinese Courts the day
17 before this Court issued its initial ruling denying Respondents' motion to quash, that the
18 Chinese Criminal Courts have definitively decided not to indict Mr. Sun. This Court is
19 therefore satisfied that there are no current foreign proceedings pending against Mr. Sun.
20 Thus, one of the fundamental requirements for the procedure authorized by 28 U.S.C.
21 1782(a), "a proceeding in a foreign or international tribunal" is missing. It is true that
22 such a proceeding may include "criminal investigations conducted before formal
23 accusation," but there is no reason to believe that such an investigation is occurring here.


24 Petitioners indicate that they will shortly initiate civil proceedings, and assert that
25 *Intel Corp. v. Advanced Micro Devices Inc.*, 542 U.S. 241, 243, 258-59 (2004)
26 establishes that no formal civil proceeding is necessary prior to issuing the relief provided
27 by the statute, but that is not the case. In *Intel* there was a formal civil proceeding
28 initiated by a complaint filed with the Directorate General–Competition of the

1 Commission of the European Communities which was still in its investigative stage.
2 Although Petitioners insist that they will file a civil proceeding in China, they have not
3 yet done so. Therefore, the Court reconsiders its Orders at Doc. 2 and Doc. 18 in this
4 case.

5 **IT HEREBY ORDERED** granting the Motion for Reconsideration (Doc. 19) and
6 reconsidering the Court's Order set forth at Doc. 18, and quashing the four subpoenas
7 served on Respondents on April 15, 2019.

8 **IT IS FURTHER ORDERED** denying Respondent's Motion For Leave To File
9 Reply (Doc. 22) as moot.

10 Dated this 10th day of September, 2019.

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12 G. Murray Snow
13 Chief United States District Judge
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